

Common Compliance Problems Identified through Compliance Checks

1. FUTA – tribes still making tax deposits and/or filing Forms 940 when they are not required to pay FUTA because they participate in State unemployment.
2. Noncompliance with Revenue Ruling 59-354 - Tribal council members' pay being handled incorrectly and reported on a Form 1099 instead of a Form W-2, or being reported on a Form W-2 with FICA, Medicare and income tax withheld
3. Form 1099 problems
 - the forms were not prepared at all,
 - the forms were prepared incorrectly (amounts in the wrong box, etc.).
 - the forms were prepared but not submitted to IRS,
 - the incorrect copy was submitted to IRS,
 - not aware of the exception to filing on payments to corporations,
 - not aware of requirement to file 1099 for medical and legal expenses, even if the recipient is incorporated
4. Employment tax return filing/deposit problems
 - tax returns filed but no tax deposits were made,
 - deposits were made but no return was filed
 - deposits were made to incorrect period,
 - deposits were made using the wrong timetable (e.g. monthly deposits when should be semiweekly),
 - unaware of the "next day" deposit rule
 - Form 941 was filed with no Schedule B attached
5. Forms W-9 and W-4 are not being used, or are not being updated when necessary
6. Unaware of requirement to backup withhold if no TIN provided prior to payment
7. Payments to tribal members (committee members, gaming and non-gaming per capitias) not reported on information returns, reported on the wrong information return, required withholding not done, or withholding done incorrectly
8. Amounts on Forms W-2, W-3, 1096 and 941 don't reconcile
9. Incorrect filing requirements for the entity, or there are other tribal entities that were not identified to the IRS as belonging to the tribe
10. Unaware of magnetic media filing requirement, and unaware of FIRE system (Filing Information Returns Electronically)